S.B. CIVIL MISC. APPEAL NO.708/2007
(Mal Singh & anr. Vs. Ratan Singh & ors.)

Date of Order :: 22nd February 2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.M.L.Khatri for the appellants

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For accidental death of about 28 years old son of the appellants, said to be working as khalasi on a vehicle and getting Rs.2,000/- per month apart from other allowances, the Tribunal has taken the average income of the deceased at Rs.2,100/- per month; has deducted one-third on his personal expenditure and with reference to the age of mother of the deceased at about 50 years, has assessed pecuniary loss with application of multiplier of 13 at Rs.2,18,400/- (1,400x12x13) and while allowing Rs.5,000/- towards non-pecuniary loss and Rs.2,000/- towards funeral expenses has made award of compensation in the sum of Rs.2,25,400/- and has allowed interest at the rate of 6% per annum but only from the date of award. The award aforesaid is sought to be questioned in this appeal by the claimants as being low and inadequate.

Learned counsel Mr.M.L.Khatri arguing for the appellants contended that the Tribunal has assessed loss of the claimants on much lower side and has restricted on interest only from the date of award and, therefore, the

impugned award deserves interference.

Though it is true that the proposition adopted by the Tribunal for allowing interest only from the date of award seems questionable and no reason has been assigned for not allowing interest from the date of filing of claim application; but when examined in the context of other errors committed by the Tribunal of assessing pecuniary loss on the higher side, this Court is of opinion that the ultimate amount awarded by the Tribunal cannot be said to be falling short of just compensation admissible in this case.

The deceased was an unmarried person in about 28 years of age and the parents appear to be in the age group of 50-55 years. The Tribunal has ignored the relevant aspect that the deceased was an unmarried person and there remained future likelihood of his getting married and thereby larger part of his income being diverted to his own family. In the overall circumstances of the case, not more than half of the estimated income of the deceased could have been taken towards loss of contribution for the claimants; and taking of two-third has only led to an excessive multiplicand. Then, in view of the age group of the claimants, application of multiplier of 13 also appears to be on the higher side if not too excessive.

In the ultimate analysis, the award of compensation in the sum of Rs.2,25,400/- could only be said to be rather on the higher side and in the context of such award, it cannot be said that denial of interest from the date of claim application has resulted in serious injustice. There appears no scope for interference in appeal.

The appeal fails and is, therefore, dismissed summarily.

MK **(DINESH MAHESHWARI), J.**